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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,089	10/24/2003	Kelley Jones	SASL:013\HON	8449

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Docket Clerk  
P.O. Drawer 802432  
Dallas, TX 75380

EXAMINER

LOWE, MICHAEL S

ART UNIT PAPER NUMBER

3652

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,089	JONES, KELLEY	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Scott Lowe	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) .<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/11/05 and thus 6/3/05 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Worthington (US 2002/0121792).

Re claim 1, Worthington teaches a tool 10 that could be used for lifting a CMP pad, comprising:

a non-pivoted jaw structure 16 having an upper jaw portion 38 (with an arcuate lower surface) and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a first member 20,22 pivotally coupled to the jaw; and

a second member 14 pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Re claim 4, Worthington teaches the jaw 16 comprises a first half coupled to a second half.

Re claim 5, Worthington teaches the lower jaw portion 16(36) comprises a substantially flat lower surface.

Re claim 6, Worthington teaches the first member 20,22 comprises a cutout 30 in which a portion of the second member 14 is pivotally positioned.

Re claim 7, Worthington teaches the surface of the second member 14 comprises a textured surface 36.

Claims 1-5,7-11,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Krauss (US 6,086,126).

Re claims 1,8, Krauss teaches a tool 10 that could be used for lifting a CMP pad 38, comprising:

a non-pivoted jaw structure (20) having an upper jaw portion 20a (with an arcuate lower surface) and a lower jaw portion 20b, the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a first member 32 pivotally coupled to the jaw; and

a second member 26 pivotally coupled (indirectly) to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Re claim 2, Krauss teaches the upper jaw portion has an arcuate lower surface.

Re claims 3,9, Krauss teaches the jaw is arcuate.

Re claims 4,10, Krauss teaches the jaw 20 comprises a first half 20a coupled to a second half 20b.

Re claims 5,11, Krauss teaches the lower jaw portion comprises a substantially flat lower surface.

Re claims 7,14, Krauss teaches the surface of the second member comprises a textured surface 26b.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worthington (US 2002/0121792) in view of Krauss (US 6,086,126).

Re claims 2,3, Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches

the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

Re claims 8,9, Worthington teaches a tool 10 that could be used for lifting a CMP pad, comprising:

a non-pivoted jaw structure 16 having an upper jaw portion 38 and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad;

a first member 20,22 pivotally coupled to the jaw; and

a second member 14 pivotally coupled to the first member, the second member having a surface opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

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Re claims 10,17, Worthington teaches the jaw 16 comprises a first half coupled to a second half.

Re claims 11,18, Worthington teaches the lower jaw portion 16(36) comprises a substantially flat lower surface.

Re claims 12,19, Worthington teaches the first member 20,22 comprises a cutout 30 in which a portion of the second member 14 is pivotally positioned.

Re claims 13,20, Worthington teaches a cap 32 coupled to the first member to laterally enclose the cutout.

Re claim 14, Worthington teaches the surface of the second member 14 comprises a textured surface 36.

Re claims 15,16, Worthington teaches a tool 10 that could be used for lifting a CMP pad 28, comprising:

a non-pivoted jaw structure 16 having an upper jaw portion 38 (with an arcuate lower surface) and a lower jaw portion 16(36), the lower jaw portion having a sloped (relative term, also zero or 90 degree slope is still a slope) upper surface that could slidably receive a portion of the pad 28;

a handle 20,22,18 pivotally coupled to the jaw; and

a member 14 pivotally coupled to the handle, the member having a textured surface 36 opposite to the sloped surface of the lower jaw portion and operable for clamping the portion of the pad against the sloped surface when the first member is pivoted upwards.

Worthington does not teach the (upper) jaw portion having an arcuate lower surface nor the non-pivoted jaw structure being arcuate. Krauss teaches the upper jaw

portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Worthington by Krauss to have the upper jaw portion having an arcuate lower surface and the non-pivoted jaw structure being arcuate in order to avoid sharp surfaces that may tear or damage the pad.

### ***Conclusion***

Applicant's arguments with respect to the Kolacinski rejections have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the arguments addressed to Krauss) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl



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